

Message Text

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FM AMEMBASSY KABUL

TO SECSTATE WASHDC 7352

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FOR L/PM

E. O. 11652: N/A

TAGS: PGOV, PFOR, AF

SUBJECT: CABINET TASK FORCE ON QUESTIONABLE PAYMENTS ABROAD:

FOREIGN LAWS ON QUESTIONABLE PAYMENTS

REF: (A) 75 STATE 258169 (B) 75 KABUL 7541 (C) STATE 94647

1. FOLLOWING IS KEYED TO PARAGRAPHS REFTEL C:

A. YES. AFGHAN LAW FOR THE PROSECUTION AND PUNISHMENT OF BRIBERY (1973) PROVIDES CRIMINAL PENALTIES FOR INDIVIDUALS CONVICTED OF OFFERING OR ACCEPTING BRIBES. DISCUSSION OF LAW FOLLOWS BELOW.

B. NO. TO EMBASSY'S KNOWLEDGE THERE IS NO AFGHAN LAW RE-QUIRING DISCLOSURE OF PAYMENTS MADE TO GOVERNMENT OFFICIALS. HOWEVER, SUCH PAYMENTS ARE ILLEGAL UNDER PROVISIONS OF THE LAW MENTIONED IN PARA A.

C. YES. LICENSING REGULATIONS FOR PRIVATE FOREIGN TRADERS AND FIRMS IN AFGHANISTAN GOVERN THE OPERATIONS OF AGENTS. DISCUSSION OF REGULATIONS FOLLOWS BELOW.

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D. NO. THERE IS NO PRACTICE, PER SE, OF POLITICAL CON-

TRIBUTIONS IN AFGHANISTAN.

E. NO

F. NO. EMBASSY NOT AWARE OF ANY AFGHAN LAWS GOVERNING
COMMERCIAL TRANSACTIONS NOT INVOLVING GOVERNMENT OFFICIALS
OR AGENCIES.

2. THE AFGHAN LAW FOR THE PROSECUTION AND PUNISHMENT OF BRIBERY
(1973) SUPERSEDED AND STRENGTHENED EARLIER LAW AGAINST BRIBERY
OF PUBLIC OFFICIALS "IN CHARGE OF THE PUBLIC SERVICES." IN-
CLUDED IN THIS CATEGORY ARE CIVIL SERVANTS, JUDGES, MEMBERS
OF THE GOVERNMENT, POLITICAL AND COMMERCIAL REPS OF AFGHANISTAN
ABROAD, AND LAWYERS, WITNESSES, AND OTHER PERSONS WHO CERTIFY
FACTS OR GIVE THE COURTS PROFESSIONAL ADVICE. THE PENALTY
PROSCRIBED FOR BRIBERY IS THREE TO TEN YEARS IMPRISONMENT, THE
SENTENCE BEING DETERMINED BY THE CIRCUMSTANCES. THE LAW ALSO
PROVIDES THAT AN ATTEMPT AT GIVING OR RECEIVING A BRIBE SHALL
BE CONSIDERED AS THE ACTUAL CRIME AND THAT THE "ILLEGITIMATE
WEALTH" OF THE ACCUSED SHALL BE CONFISCATED. A COPY OF THIS
LAW IS BEING AIR POUCHED TO L/PM.

3. LICENSING REGULATIONS FOR PRIVATE FOREIGN TRADERS AND FIRMS,
IN AFGHANISTAN WERE PROMULGATED IN 1965. THE REGULATIONS REQUIRE
ALL FOREIGN TRADERS TO REGISTER AND OBTAIN A LICENSE FROM THE
MINISTRY OF COMMERCE. THERE ARE NO SPECIFIC PROVISIONS IN THE
LAW CONCERNING THE INVOLVEMENT OF AGENTS WITH THE HOST GOVERN-
MENT. HOWEVER, ARTICLE 35, REQUIRES "FOREIGN TRADERS ... TO
OBSERVE ALL LAWS AND REGULATIONS IN FORCE IN AFGHANISTAN" AND
PROHIBITS THEM FROM INTERFERRING, DIRECTLY OR INDIRECTLY, IN
THE RELIGIOUS AND POLITICAL AFFAIRS OF AFGHANISTAN. ANY SUCH
INTERFERENCE, IN ADDITION TO LEGAL PENALTIES, WILL RESULT
IN THEIR COMMERCIAL ACTIVITIES BEING TERMINATED AND THEIR EX-
PULSION (IF THEY ARE FOREIGNERS) FROM THE COUNTRY. COPY OF
LICENSING REGULATIONS PREVIOUSLY AIR POUCHED TO DEPARTMENT
(L/PM) IN RESPONSE TO REF A.
ELIOT

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